

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 BRECKON J. SCOTT,

4 Plaintiff

5 v.

6 AHMED TEBHA, et al.,

7 Defendants

Case No.: 2:19-cv-01919-APG-DJA

Order Regarding Removal

8 Defendants Ahmed Tebha and Cloud 9 LV, LLC responded to my Order to Show Cause
9 but did not explain how their removal was timely despite being filed over a year after the case
10 was originally filed in state court. *See* 28 U.S.C. § 1446(c)(1). This potential timeliness defect is
11 procedural and therefore waivable by the plaintiff, so I cannot remand the case based on that
12 “absent a timely filed motion to remand.” *Smith v. Mylan*, 761 F.3d 1042, 1045 (9th Cir. 2014).
13 A motion to remand based on procedural defects must be filed within 30 days of removal. 28
14 U.S.C. § 1447(c).

15 The defendants also have not stated whether any of the members of the defendant LLCs
16 is a citizen of Washington (thereby defeating diversity) or Nevada (thereby violating the
17 prohibition against removal by a forum defendant in 28 U.S.C. § 1441(b)(2)). The defendants’
18 references to the managers of those entities is irrelevant because these issues are determined by
19 the citizenship of the members of an LLC. *See Johnson v. Columbia Properties Anchorage, LP*,
20 437 F.3d 894, 899 (9th Cir. 2006) (stating that “an LLC is a citizen of every state of which its
21 owners/members are citizens”).

22 I THEREFORE ORDER the defendants to supplement their brief to identify the
23 citizenship of each member of each defendant LLC by December 5, 2019.

1 I FURTHER REMIND the plaintiff that, notwithstanding the above deadline, any
2 motion to remand based on these or any other procedural defects must be filed by December 2,
3 2019 or those defects will be deemed waived.

4 DATED this 27th day of November, 2019.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE